

PATENT
Attorney Docket No. VM7031422003
Varian No. 03-010US

REMARKS

Amendments to claims 18, 25, and 28 are for the purpose of clarifying what Applicant regards as the invention. Amendments to claims 19, 21, 26, 29, and 31 are to bring these claim into conformity with the language of their respective base claims. Claims 35 and 40 have been amended to incorporate a limitation from canceled claim 36. Claims 43 has been amended to incorporate a limitation from canceled claim 44. No new matter has been added.

I. Allowed Claims

Applicant wishes to thank the Examiner for allowing claims 1-34, 48-50, and 54-65.

II. Claim Objections

Claims 18, 25, and 28 stand objected to. These claims have been amended to remove the alleged deficiency pointed out in the Office Action.

III. Claim Rejections under 35 U.S.C. § 102

Claims 35-37, 39, 40, 42-45, 47, and 51-53 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 7,003,146 (Eck). Applicant respectfully notes that in order to sustain a claim rejection under § 102, each of the claimed elements must be found, either expressly or inherently, in the cited reference.

Claim 35 recites at least a portion of the first x-ray image and at least a portion of the second x-ray image comprise images of a same portion of an object. Claims 40 and 43 recite similar limitations. Eck does not disclose or suggest the above limitations. Rather, Eck discloses a plurality of images 30, each of which is an "offset image" that represents a cross sectional image of a *different* part of an object (column 1, lines 15-17; column 3, lines 44-47; figure 1). As such, in Eck, no two images contain images of a same portion of an object. For at least the foregoing reason, claims 35, 40, and 43, and their respective dependent claims, are believed allowable over Eck.

Claims 35, 38, 40, 41, 43, and 46 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,940,945 (Maschke). Claims 35 and 40 have been amended to

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incorporate a limitation from canceled claim 36, which is believed allowable over Maschke. Claim 43 has been amended to incorporate a limitation from canceled claim 44, which is also believed allowable over Maschke. As such, the amended claims 35, 40, and 43, and their respective dependent claims, are believed allowable over Maschke.

IV. Double Patenting

Claims 35, 38-43, 46, and 47 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting over claims 1-63 of copending Application No. 10/655,920. Without acquiescence that claims 35, 38-43, 46, and 47 of the present application are not patentably distinct over claims 1-63 of U.S. Patent Application No. 10/655,920, Applicant submits herewith a Terminal Disclaimer that is believed to overcome the double patenting rejections of these claims, and as such, respectively requests withdrawal of the obvious-type double patenting rejections of claims 35, 38-43, 46, and 47.

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CONCLUSION

Based on the foregoing, all remaining claims are believed in condition for allowance. If the Examiner has any questions or comments regarding this amendment, please contact the undersigned at the number listed below.

The Commissioner is authorized to charge any fees due in connection with the filing of this document to Bingham McCutchen's Deposit Account No. 50-2518, referencing billing number 7031422003. The Commissioner is authorized to credit any overpayment or to charge any underpayment to Bingham McCutchen's Deposit Account No. 50-2518, referencing billing number 7031422003.

DATE: May 19, 2006

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